

M E M O R A N D U M

April 17, 2023

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst

SUBJECT: Police Accountability Board NDA: FY24 Operating Budget

PURPOSE: To review and vote on the FY24 Recommended Budget

Today the Committee will review the County Executive Recommended FY24 Operating Budget. Those expected to attend include:

Fatmata Barrie, Executive Director, Police Accountability Board (PAB)
Derrick Harrigan, Office of Management and Budget (OMB)

Budget Summary

The FY24 Recommended Budget includes funding for two full time staff positions, as well as salaries for PAB and Administrative Charging Committee (ACC) members.

Caseloads are expected to substantially increase beginning July 1, and PAB staffing may need to be reexamined before FY25.

Overview

For FY24, the County Executive recommends total expenditures of \$509,222, an increase of \$72,681 or 16.65%.

FY24 Budget Summary				
	FY22 Actual	FY23 Approved	FY24 Recommended	% Change FY23-FY24
Expenditures by fund				
General Fund	-	\$436,541	\$509,222	16.65%
Grant Fund	-			
Total Expenditures	\$0	\$436,541	\$509,222	16.65%
Positions				
Full-Time	-	2	2	0.00%
Part-Time	-	0	0	
FTEs	0	2	2	0.00%

The \$72,682 net increase stems from the following identified same services impacts:

Identified Same Service Adjustments	
Increase Cost: FY24 Compensation Adjustment	\$5,114
Increase Cost: Annualization of Positions	\$55,007
Increase Cost: PAB and ACC Salary Increases	\$12,560
Net Same Services Adjustment Total:	\$72,681

FY24 Expenditure Issues

Police Accountability Board

This NDA provides funding for the Police Accountability Board (PAB) and the Administrative Charging Committee (ACC) in accordance with the Maryland Police Accountability Act of 2021, and pursuant to Montgomery County Bill 49-21. The purpose of the PAB and the ACC is to review police data, and adjudicate on law enforcement officers being investigated or charged for disciplinary infractions. Funding in the NDA would accommodate the projected administrative needs of the anticipated nine PAB members and five ACC members. Administrative and operating costs incurred by those bodies include expenses for annual meetings, staffing support, salary compensation for PAB and ACC members, office supplies, printing, interpreter services, legal advice, and dependent care for board and committee members. The NDA will also accommodate training costs for board and committee members, however until those costs can be finalized by the Maryland Police Training and Standards Commission

Non-Departmental Accounts

Other County Government Functions 73-17

(MPTSC) an estimate consistent with other certifications provided by MPTSC was used. The operations of the Police Accountability Board and the Administrative Charging Committee are independent of all Montgomery County law enforcement agencies and leadership.

FY24 Recommended Changes	Expenditures	FTEs
FY23 Approved	436,541	2.00
Increase Cost: Annualization of Positions	55,007	0.00
Increase Cost: Police Accountability Board and Administrative Charging Committee Salary Increase	12,560	0.00
Increase Cost: FY24 Compensation Adjustment	5,114	0.00
FY24 Recommended	509,222	2.00

Staffing

Overview: The Police Accountability Board (PAB)¹ is composed of nine public voting members, one of whom serves as Chair. Members will serve three-year terms and other than the Chair, each receives \$10,000 annual compensation. The PAB Chair, who also serves as the Chair of the Administrative Charging Committee (ACC), receives \$22,000 annual compensation.

The Administrative Charging Committee has four members plus the Chair. The four members each receive \$16,000 annual compensation.

Annualization of Positions (\$55,007): This amount reflects the annualization of two FTE positions. The Executive Director position was not filled until 2023, and the Administrative Assistant position has not yet been filled.

PAB and ACC Salary Increase (\$12,560): By law, members receive an annual increase in December, based on the Consumer Price Index-Urban for the Washington, DC metropolitan area. This year, members received a two percent increase.

FY24 Compensation Adjustment (\$5,114): This amount reflects insurance adjustment and General Wage Adjustment for staff.

Operations

Operating Expenses (\$71,930): Operating expenses remain the same as FY23. These funds are used for office supplies, printing, interpreter services, and dependent care reimbursement for board and committee members.

Complaints: As of January 2023, the PAB has received six complaints against police officers. Of those received through the online PAB Complaint Portal, two were ineligible (and duplicative) because they involved an event that occurred prior to July 1, 2022. Of those received from police departments, one from the Gaithersburg City Police and two from the Rockville City Police were deemed eligible. All eligible complaints are currently under investigation by the Administrative Charging Committee.

Complaints Filed with the PAB			
	Eligible	Ineligible	Total
PAB Complaint Portal	1	2	3
By Other Means	3	0	3
Total	4	2	6

According to the PAB, a complaint is eligible for investigation if:

- o The incident must have occurred after 7/1/22, the Establishment of the legislation

¹ [Police Accountability Board](#) website

- o The incident must involve a member of the public and actions of a member of Law Enforcement
- o The incident must involve a member of Law Enforcement not currently under a collective bargaining agreement. Those under collective bargaining agreements still fall under Law Enforcement Officers Bill of Rights until July 1, 2023.

Outside Counsel: The County Attorney’s Office advertised for outside counsel to advise the PAB as needed. To date, this position has not been filled.

Civilian Appointee to the Trial Board: The Police Accountability Act of 2021 requires police departments to create a Trial Board to hear officer appeals of disciplinary decisions. The Trial Board is to be comprised of a retired District Court, Circuit Court, or Administrative Law Judge, appointed by the County Executive. Other members include one police officer of equal rank to the appellee, and one civilian member appointed by the PAB, who must not be a member of the ACC. The Committee may wish to ask for a status update on the civilian appointee to the Trial Board.

July 1 Caseload: Beginning on July 1, the ACC will be responsible for reviewing all complaints against MCPD police officers and Sheriff’s Deputies that involve members of the public. At that time, their respective collective bargaining contracts will expire on June 30, and they will then be subject to the new disciplinary framework. Due to its size, MCPD is expected to generate the most complaints, although complaint volume is difficult to project. For illustrative purposes only, the following chart shows the number of complaints MCPD has received each year for the past four years.

MCPD Complaints by Calendar Year			
Year	Total	% Sworn	Total Sworn
2018	491	82.5%	405
2019	270	91.0%	246
2020	220	89.0%	196
2021	228	93.0%	212

These numbers represent all complaints, which may include certain types of complaints that are not eligible for review by the ACC. Council staff also advises that total complaints may increase if community members feel an independent investigative body is more objective. Council staff is concerned about the potential workload that the ACC faces and recommends that the Committee follow up with a status update sometime in the fall. If the PAB’s Administrative Assistant position has not yet been filled, Council staff recommends prioritizing hiring for this position before July 1.

Racial Equity and Social Justice Analysis: According to the OMB FY24 Budget Equity Tool, the PAB staff is taking steps to implement its Racial Equity CORE team and receive training such as the Groundwater Approach. The PAB also intends to “[d]evelop a strategy to engage communities in planning, design, or other decision-making processes.”

Council staff realizes that PAB and ACC member time is limited and very valuable. If timing and funding allow, Council staff recommends that the PAB examine whether it would be beneficial for PAB staff and PAB/ACC members to attend Community Training by Fair and

Impartial Policing.² The Police Academy provides FIP training to all recruits, so every department in Montgomery County has had at least some of their officers have been trained and use FIP to address implicit bias. It would be helpful to the PAB and ACC to better understand the framework under which officers are currently working, particularly in complaints that involve bias. Community training is approximately four hours.

Council Staff Recommendation:

This year, the Committees are placing all tax-supported increases in the CE's FY24 Recommended Operating Budget on the Reconciliation List, and Committees are recommending that all items should be categorized as either "High Priority" or "Priority." If Committees choose to not fund specific items, those reductions are also placed on the Reconciliation List. Since all PAB increases are compensation-related, there are no other tax-supported increases to consider. Council staff recommends approval of the budget as submitted by the Executive.

² [Fair and Impartial Policing – Community Training](#)